

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 677

(Senator Astle)

Judicial Proceedings

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Public Safety - Highway Work Zones - Off-Duty Law Enforcement Officers  
Required

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This bill requires the State Highway Administration (SHA) to require a contractor or other person establishing a highway work zone to retain the services of an off-duty law enforcement officer to monitor and assist in traffic control and enforcement in the work zone when (1) workers are present; (2) one or more travel lanes are closed; and (3) the speed limit in the work zone is at least 40 miles per hour.

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Fiscal Summary

**State Effect:** Transportation Trust Fund (TTF) expenditures increase significantly – potentially by more than \$4 million annually – for SHA to contract with off-duty police officers to assist in traffic control and enforcement in work zones. Revenues are not affected.

**Local Effect:** The bill is not anticipated to directly affect local operations or finances.

**Small Business Effect:** Minimal, assuming all costs continue to be directly paid by SHA.

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Analysis

**Current Law:** The bill references an existing definition of “work zone,” which is a segment of a highway (1) that is identified as a temporary traffic control zone by traffic control devices that are placed or installed in general conformance with the State manual and specifications adopted for a uniform system of traffic control devices and (2) where highway construction, repair, maintenance, utility work, or a related activity, including

the placement, installation, maintenance, or removal of a work zone traffic control device, is being performed, regardless of whether workers are present.

The bill also references an existing definition of a “law enforcement officer,” which is an individual who, in an official capacity, is authorized by law to make arrests, and is a member of 1 of 25 specified State and local law enforcement agencies.

SHA is required to construct, reconstruct, and repair State highways as necessary and maintain them in good condition.

**Background:** Chapter 500 of 2009 authorized the use of speed monitoring systems in highway work zones that are set up on expressways or controlled access highways where the speed limit is 45 miles per hour or greater. State and local law enforcement agencies or their contractors may issue citations or warnings for speeding at least 12 miles per hour above the posted speed limit. The maximum fine for a ticket issued by a work zone speed control system operator is \$40. A conspicuous road sign warning of the use of speed monitoring systems must be placed at a reasonable distance from the work zone.

The Maryland Department of Transportation advises that work zones are inherently dangerous due to obstacles such as concrete barriers, narrowed lanes, and cones, all of which increase the risk of traffic accidents from speeding motorists. In these work zone accidents, about 85% of injuries are to the motorists, and about 15% of those injured are transportation workers according to 2010 Federal Highway Administration data.

Data from the National Work Zone Safety Information Clearinghouse shows that there were 609 fatalities in highway work zones nationwide in 2012, including 6 in Maryland. While the number of work zone fatalities in Maryland in 2012 was greater than the number in 2011, there was a significant drop in the average number of fatalities in the three full years since the work zone speed control program began, as compared with the three full years prior to the program’s commencement. From 2010 through 2012, there was an average of 5.3 work zone fatalities per year in Maryland, a reduction of about 53% from the three-year average of 11.3 fatalities per year from 2006 through 2008. Nationally, there was also a similar, but much less significant drop in work zone fatalities, with a 30% reduction in the three-year average from 2010 through 2012, as compared with the period from 2006 through 2008. Federal data also shows that work zone fatalities, *as a percentage of total traffic fatalities*, have dropped in Maryland, using three-year averages from 2006 through 2008 and 2010 through 2012. Again, the reduction in Maryland is greater than the similar, but less significant, reduction nationally in terms of the percentage of traffic fatalities occurring in work zones.

**State Expenditures:** SHA advises that, in fiscal 2013, about \$587,000 was paid to off-duty officers of the Department of State Police (DSP) for 13,300 hours of assistance (average cost of \$44.14 per hour of overtime). Current SHA policy requires assistance from off-duty DSP officers under the following circumstances:

- major construction projects;
- full roadway or major ramp closures on expressways/freeways required for temporary maintenance;
- closure of two or more lanes on urban freeways or expressways;
- to complement reduced speed signs where reduced speed is desired;
- work zone situations involving short-term or momentary traffic disruptions such as those caused by erection of overhead structures, the moving of large construction equipment, and signal “swap-overs” along busy arterial roads; and
- work areas in which driver error and/or inattentiveness may result in erratic maneuvers, such as those involving temporary median crossover, temporary bypass roads, and areas with new and/or unusual traffic pattern.

SHA estimates that the additional circumstances specified by the bill result in an increase in the number of hours in which off-duty officers are used for traffic control and enforcement assistance of about eight times current levels. Thus, TTF expenditures increase by about \$3.5 million in fiscal 2015, which accounts for the bill’s October 1, 2014 effective date, and by about \$4.7 million annually, assuming a continuation in fiscal 2015 of the average hourly rate paid to DSP off-duty officers and the amount of work zone road work in fiscal 2013.

**Additional Comments:** This fiscal and policy note assumes that the bill only applies to SHA, but not to local governments, because the bill’s requirement specifically refers to SHA and not local governments. However, because the bill applies to a work zone established on a “highway,” rather than on a “State highway,” the bill’s requirement could also be interpreted to apply to highways owned by a local government. To the extent that the bill also applies to locally owned highways, local government expenditures may also increase significantly.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 911 (Delegate Beidle) - Environmental Matters.

**Information Source(s):** Baltimore, Dorchester, Garrett, Howard, and Montgomery counties; the Town of Berlin; Maryland Association of Counties; National Work Zone Safety Information Clearinghouse; Federal Highway Administration; Maryland Department of Transportation; Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2014  
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